



DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 584

Magnitsky Act Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is adding regulations to implement certain provisions of the Sergei Magnitsky Rule of Law Accountability Act of 2012.

DATES: Effective: [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: The Department of the Treasury’s Office of Foreign Assets Control: Assistant Director for Licensing, tel.: 202-622-2480, Assistant Director for Regulatory Affairs, tel.: 202-622-4855, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202-622-2490; or the Department of the Treasury’s Office of the Chief Counsel (Foreign Assets Control), Office of the General Counsel, tel.: 202-622-2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document and additional information concerning OFAC are available from OFAC’s website (www.treasury.gov/ofac).

Background

On December 14, 2012, the President signed into law the Sergei Magnitsky Rule of Law Accountability Act of 2012, Public Law 112-208, title IV, 126 Stat. 1502 (2012) (the “Act”). The Act provides authority for the identification of and imposition of sanctions on certain persons related to the detention, abuse, and death of Sergei Magnitsky or responsible for certain gross violations of human rights in the Russian Federation.

Section 404(a) of the Act requires the President to submit to certain congressional committees a list of each person the President has determined meets certain criteria set forth in

the Act. Section 406 of the Act requires the President, with certain exceptions, to exercise powers granted by the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to the extent necessary to freeze, and prohibit all transactions in, all property and interests in property that are in the United States, that come within the United States, or that are or come within the possession or control of any United States person or persons on the list required by Section 404(a) of the Act.

Section 404(a) of the Act sets out criteria for inclusion on the list, namely, certain persons who the President determines:

(1) Are responsible for the detention, abuse, or death of Sergei Magnitsky, participated in efforts to conceal the legal liability for the detention, abuse, or death of Sergei Magnitsky, financially benefitted from the detention, abuse, or death of Sergei Magnitsky, or were involved in the criminal conspiracy uncovered by Sergei Magnitsky;

(2) Are responsible for extrajudicial killings, torture, or other gross violations of internationally recognized human rights committed against individuals seeking: to expose illegal activity carried out by officials of the Government of the Russian Federation; or to obtain, exercise, defend, or promote internationally recognized human rights and freedoms, such as the freedoms of religion, expression, association, and assembly, and the rights to a fair trial and democratic elections, in Russia; or

(3) Acted as agents of or on behalf of a person in a matter relating to an activity described in paragraph (1) or (2).

Pursuant to Presidential Memorandum of April 5, 2013: Delegation of Functions Under Section 404 and 406 of Public Law 112-208 (78 F.R. 22761, April 16, 2013), the President delegated certain functions and authorities, including the functions and authorities set forth in section 404(a) of the Act, with respect to the determinations provided for therein, and section 406(a)(1) of the Act, with respect to the freezing, and prohibiting all transactions in, property, to the Secretary of the Treasury, in consultation with the Secretary of State.

Section 406(d) of the Act requires the Secretary of the Treasury to issue regulations, licenses, and orders as are necessary to carry out Section 406 of the Act. In furtherance of this requirement and the Presidential delegation of functions and authorities noted above, OFAC is promulgating the Magnitsky Act Sanctions Regulations, 31 CFR part 584 (the “Regulations”).

The Regulations implement targeted sanctions that are directed at persons determined to meet the criteria set forth above. The sanctions do not generally prohibit trade or the provision of banking or other financial services to the Russian Federation. Instead, the sanctions apply where the transaction or service in question involves property or interests in property that are blocked pursuant to these sanctions.

Subpart A of the Regulations clarifies the relation of this part to other laws and regulations. Subpart B of the Regulations implements the prohibitions contained in section 406

of the Act. See, e.g., §§ 584.201 and 584.205. Persons designated by or under the authority of the Secretary of the Treasury pursuant to the Magnitsky Act or otherwise subject to blocking pursuant to the Act are referred to throughout the Regulations as “persons whose property and interests in property are blocked pursuant to § 584.201(a).” The names of persons designated pursuant to the Act are published on OFAC’s Specially Designated Nationals and Blocked Persons List, which is accessible via OFAC’s website. Those names also are published in the Federal Register as they are added to the List.

Sections 584.202 and 584.203 of subpart B detail the effect of transfers of blocked property in violation of the Regulations and set forth the requirement to hold blocked funds, such as currency, bank deposits, or liquidated financial obligations, in interest-bearing blocked accounts. Section 584.204 of subpart B provides that all expenses incident to the maintenance of blocked physical property shall be the responsibility of the owners and operators of such property, and that such expenses shall not be met from blocked funds, unless otherwise authorized. The section further provides that blocked property may, in OFAC’s discretion, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

Section 584.205 of subpart B prohibits any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in this part, and any conspiracy formed to violate such prohibitions.

Section 584.206 of subpart B details transactions that are exempt from the prohibitions of the Regulations pursuant to sections 203(b)(1)-(4) of IEEPA (50 U.S.C. 1702(b)(1)-(4)). These exempt transactions relate to personal communications, donations of articles intended to be used to relieve human suffering, the importation and exportation of information or informational materials, and transactions ordinarily incident to travel.

Subpart C of the Regulations defines key terms used throughout the Regulations, and subpart D contains interpretive sections regarding the Regulations. Section 584.410 of subpart D explains that the property and interests in property of an entity are blocked if the entity is directly or indirectly owned, whether individually or in the aggregate, 50 percent or more by one or more persons whose property and interests in property are blocked, whether or not the entity itself is designated pursuant to the Act.

Transactions otherwise prohibited under the Regulations but found to be consistent with U.S. policy may be authorized by one of the general licenses contained in subpart E of the Regulations or by a specific license issued pursuant to the procedures described in subpart E of 31 CFR part 501. Subpart E of the Regulations also contains certain statements of specific licensing policy in addition to the general licenses. General licenses and statements of licensing policy relating to this part also may be available through the Magnitsky Sanctions page on OFAC's website: www.treasury.gov/ofac.

Subpart F of the Regulations refers to subpart C of part 501 for recordkeeping and reporting requirements. Subpart G of the Regulations describes the civil and criminal penalties

applicable to violations of the Regulations, as well as the procedures governing the potential imposition of a civil monetary penalty or issuance of a Finding of Violation. Subpart G also refers to appendix A of part 501 for a more complete description of these procedures.

Subpart H of the Regulations refers to subpart E of part 501 for applicable provisions relating to administrative procedures and contains a delegation of authority by the Secretary of the Treasury. Subpart I of the Regulations sets forth a Paperwork Reduction Act notice.

Public Participation

Because the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, as well as the provisions of Executive Order 13771, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601-612) does not apply.

Paperwork Reduction Act

The collections of information related to the Regulations are contained in 31 CFR part 501 (the “Reporting, Procedures and Penalties Regulations”). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505-0164. An agency may not

conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 584

Administrative practice and procedure, Banking, Banks, Blocking of assets, Brokers, Credit, Foreign Trade, Investments, Loans, Magnitsky, Russia, Penalties, Reporting and recordkeeping requirements, Securities, Services.

For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets Control adds part 584 to 31 CFR chapter V to read as follows:

PART 584—MAGNITSKY ACT SANCTIONS REGULATIONS

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Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601-1651, 1701-1706; Pub. L. 101-410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110-96, 121 Stat. 1011 (50 U.S.C. 1705 note); Pub. L. 112-208, 126 Stat. 1502, (22 U.S.C. 5811 note).

Subpart A—Relation of This Part to Other Laws and Regulations

§ 584.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction

prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 584.201 Prohibited transactions involving blocked property.

(a) All property and interests in property that are in the United States, that come within the United States, or that are or come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: Any person who the Secretary of the Treasury, in consultation with the Secretary of State, determines:

(1) Is responsible for the detention, abuse, or death of Sergei Magnitsky, participated in efforts to conceal the legal liability for the detention, abuse, or death of Sergei Magnitsky, financially benefitted from the detention, abuse, or death of Sergei Magnitsky, or was involved in the criminal conspiracy uncovered by Sergei Magnitsky;

(2) Is responsible for extrajudicial killings, torture, or other gross violations of internationally recognized human rights committed against individuals seeking:

(i) To expose illegal activity carried out by officials of the Government of the Russian Federation; or

(ii) To obtain, exercise, defend, or promote internationally recognized human rights and freedoms, such as the freedoms of religion, expression, association, and assembly, and the rights to a fair trial and democratic elections, in Russia; or

(3) Acted as an agent of or on behalf of a person in a matter relating to an activity described in paragraph (a)(1) or (2) of this section.

Note 1 to paragraph (a): The names of persons who meet the criteria in paragraph (a) of this section and are designated pursuant to the Magnitsky Act, whose property and interests in property are therefore blocked pursuant to this paragraph (a), are published in the Federal Register and incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) with the identifier "MAGNIT." The SDN List is accessible through the following page on OFAC's website: www.treasury.gov/sdn. Additional information pertaining to the SDN List can be found in appendix A to this chapter. See § 584.410 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked pursuant to this paragraph (a).

Note 2 to paragraph (a): The International Emergency Economic Powers Act (50 U.S.C. 1701-1706), in Section 203 (50 U.S.C. 1702), authorizes the blocking of the property and interests in property of a person during the pendency of an investigation. The names of persons

whose property and interests in property are blocked pending investigation pursuant to this paragraph (a) also are published in the Federal Register and incorporated into the SDN List with the identifier “[BPI-MAGNIT].”

Note 3 to paragraph (a): Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, and administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to this paragraph (a).

Note 4 to paragraph (a): The Magnitsky Act requires the President to submit to certain congressional committees a list of each person the President has determined meet the Act’s criteria, which correspond to the criteria set forth in this section. The Magnitsky Act provides that the President shall exercise all powers granted by the International Emergency Economic Powers Act, 50 U.S.C. 1701-1706 (except that the requirements of Section 202 of such act requiring the declaration of a national emergency (50 U.S.C. 1701) shall not apply), to the extent necessary to freeze and prohibit all transactions in all property and interests in property of a person on this list if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person. The Magnitsky Act also provides for an exception from the above prohibitions for persons included on a classified annex if the President determines that such an exception is vital for the national security interests of the United States, and for a waiver of the above prohibitions if the Secretary of the Treasury determines that such a waiver is in the national interests of the United States.

(b) The prohibitions in paragraph (a) of this section include prohibitions on the following transactions:

(1) The making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to paragraph (a) of this section, except for donations by United States persons of articles, such as food, clothing, and medicine, intended to be used to relieve human suffering; and

(2) The receipt of any contribution or provision of funds, goods, or services from any person whose property and interests in property are blocked pursuant to paragraph (a) of this section.

(c) Unless authorized by this part or by a specific license expressly referring to this section, any dealing in any securities (or evidence thereof) held within the possession or control of a U.S. person and either registered or inscribed in the name of, or known to be held for the benefit of, or issued by, any person whose property and interests in property are blocked pursuant to paragraph (a) of this section is prohibited. This prohibition includes the transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of, or the endorsement or guaranty of signatures on, any securities on or after the effective date. This prohibition applies irrespective of the fact that at any time (whether prior to, on, or subsequent to the effective date) the registered or inscribed owner of any such securities may have or might appear to have assigned, transferred, or otherwise disposed of the securities.

(d) The prohibitions in paragraph (a) of this section apply except to the extent transactions are authorized by regulations, orders, directives, rulings, instructions, licenses, or otherwise, and notwithstanding any contract entered into or any license or permit granted prior to the effective date.

§ 584.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 584.201(a), is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or property interest.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 584.201(a), unless the person who holds or maintains such property, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, a license or other authorization issued by OFAC before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent

that it would be valid or enforceable but for the provisions of this part and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property is or was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of OFAC each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property is or was held or maintained (and as to such person only);

(2) The person with whom such property is or was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property is or was held or maintained filed with OFAC a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other directive or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by OFAC; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

Note to paragraph (d): The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (2) of this section have been satisfied.

(e) Unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property and interests in property blocked pursuant to § 584.201(a).

§ 584.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraph (e) or (f) of this section, or as otherwise directed or authorized by OFAC, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 584.201(a) shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term blocked interest-bearing account means a blocked account:

(i) In a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) Funds held or placed in a blocked account pursuant to paragraph (a) of this section may not be invested in instruments the maturity of which exceeds 180 days.

(c) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(d) For purposes of this section, if interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(e) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 584.201(a) may continue to be held until maturity in the original

instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraph (a) or (f) of this section.

(f) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 584.201(a) may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(g) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property. However, OFAC may issue licenses permitting or directing such sales or liquidation in appropriate cases.

(h) Funds subject to this section may not be held, invested, or reinvested in a manner that provides immediate financial or economic benefit or access to any person whose property and interests in property are blocked pursuant to § 584.201(a), nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

§ 584.204 Expenses of maintaining blocked physical property; liquidation of blocked property.

(a) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted prior to the effective date, all expenses incident to the maintenance of

physical property blocked pursuant to § 584.201(a) shall be the responsibility of the owners or operators of such property, which expenses shall not be met from blocked funds.

(b) Property blocked pursuant to § 584.201(a) may, in the discretion of OFAC, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

§ 584.205 Evasions; attempts; causing violations; conspiracies.

(a) Any transaction on or after the effective date that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this part is prohibited.

(b) Any conspiracy formed to violate the prohibitions set forth in this part is prohibited.

§ 584.206 Exempt transactions.

(a) Personal communications. The prohibitions contained in this part do not apply to any postal, telegraphic, telephonic, or other personal communication that does not involve the transfer of anything of value.

(b) Information or informational materials. (1) The prohibitions contained in this part do not apply to the importation from any country and the exportation to any country of any

information or informational materials, as defined in § 584.304, whether commercial or otherwise, regardless of format or medium of transmission.

(2) This section does not exempt from regulation transactions related to information or informational materials not fully created and in existence at the date of the transactions, or to the substantive or artistic alteration or enhancement of information or informational materials, or to the provision of marketing and business consulting services. Such prohibited transactions include payment of advances for information or informational materials not yet created and completed (with the exception of prepaid subscriptions for widely circulated magazines and other periodical publications); provision of services to market, produce or co-produce, create, or assist in the creation of information or informational materials; and payment of royalties with respect to income received for enhancements or alterations made by U.S. persons to such information or informational materials.

(3) This section does not exempt transactions incident to the exportation of software subject to the Export Administration Regulations, 15 CFR parts 730-774, or to the exportation of goods (including software) or technology for use in the transmission of any data, or to the provision, sale, or leasing of capacity on telecommunications transmission facilities (such as satellite or terrestrial network connectivity) for use in the transmission of any data. The exportation of such items or services and the provision, sale, or leasing of such capacity or facilities to a person whose property and interests in property are blocked pursuant to § 584.201(a) are prohibited.

(c) Travel. The prohibitions contained in this part do not apply to transactions ordinarily incident to travel to or from any country, including importation or exportation of accompanied baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel including nonscheduled air, sea, or land voyages.

(d) Humanitarian donations. The prohibitions of this part do not apply to donations by United States persons of articles, such as food, clothing, and medicine, intended to be used to relieve human suffering.

Subpart C—General Definitions

§ 584.300 Applicability of definitions.

The definitions in this subpart apply throughout the entire part.

§ 584.301 Blocked account; blocked property.

The terms blocked account and blocked property mean any account or property subject to the prohibitions in § 584.201 held in the name of a person whose property and interests in property are blocked pursuant to § 584.201(a), or in which such person has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be

made or effected except pursuant to a license or other authorization from OFAC expressly authorizing such action.

Note to § 584.301: See § 584.410 concerning the blocked status of property and interests in property of an entity that is directly or indirectly owned, whether individually or in the aggregate, 50 percent or more by one or more persons whose property and interests in property are blocked pursuant to § 584.201(a).

§ 584.302 Effective date.

The term effective date refers to the effective date of the applicable prohibitions and directives contained in this part, and, with respect to a person whose property and interests in property are blocked pursuant to § 584.201(a), is the earlier of the date of actual or constructive notice that such person's property and interests in property are blocked.

§ 584.303 Entity.

The term entity means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

§ 584.304 Information or informational materials.

(a) The term information or informational materials includes publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds.

Note to paragraph (a): To be considered information or informational materials, artworks must be classified under heading 9701, 9702, or 9703 of the Harmonized Tariff Schedule of the United States.

(b) The term information or informational materials, with respect to exports, does not include items:

(1) That were, as of April 30, 1994, or that thereafter become, controlled for export pursuant to section 5 of the Export Administration Act of 1979, 50 U.S.C. App. 2401–2420 (1979) (EAA), or section 6 of the EAA to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States; or

(2) With respect to which acts are prohibited by 18 U.S.C. chapter 37.

§ 584.305 Interest.

Except as otherwise provided in this part, the term interest, when used with respect to property (e.g., “an interest in property”), means an interest of any nature whatsoever, direct or indirect.

§ 584.306 Licenses; general and specific.

(a) Except as otherwise provided in this part, the term license means any license or authorization contained in or issued pursuant to this part.

(b) The term general license means any license or authorization the terms of which are set forth in subpart E of this part or made available on OFAC's website: www.treasury.gov/ofac.

(c) The term specific license means any license or authorization issued pursuant to this part, but not set forth in subpart E of this part or made available on OFAC's website: www.treasury.gov/ofac.

Note to § 584.306: See § 501.801 of this chapter on licensing procedures.

§ 584.307 OFAC.

The term OFAC means the Department of the Treasury's Office of Foreign Assets Control.

§ 584.308 Participated in efforts to conceal the legal liability for the detention, abuse, or death of Sergei Magnitsky.

The term participated in efforts to conceal the legal liability for the detention, abuse, or death of Sergei Magnitsky includes direct or indirect, knowing or unknowing, involvement in, among others:

(a) Actions with the intent or effect of obstructing the release of evidence regarding Sergei Magnitsky's treatment during his detention;

(b) Posthumous legal proceedings against Sergei Magnitsky; or

(c) The making of any false or misleading reports or accounts by officials of the Russian Federation concerning Sergei Magnitsky's detention, abuse, or death, or the fraudulent tax scheme he discovered, including official statements or findings regarding Sergei Magnitsky's treatment during his detention that contradict the July 6, 2011, findings of the independent investigation by the Presidential Council on the Development of Civil Society and Human Rights, or the December 28, 2009, report of the Public Oversight Commission for the City of Moscow for the Control of the Observance of Human Rights in Places of Forced Detention.

§ 584.309 Person.

The term person means an individual or entity.

§ 584.310 Property; property interest.

The terms property and property interest include money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership, or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future, or contingent.

§ 584.311 Magnitsky Act.

The term Magnitsky Act means the Sergei Magnitsky Rule of Law Accountability Act of 2012, Pub. L. 112-208, title IV, 126 Stat. 1502 (2012).

§ 584.312 Transfer.

The term transfer means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the

purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property. Without limitation on the foregoing, it shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 584.313 United States.

The term United States means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 584.314 United States person; U.S. person.

The term United States person or U.S. person means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

§ 584.315 U.S. financial institution.

The term U.S. financial institution means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or other extensions of credit, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices, and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

Subpart D—Interpretations

§ 584.401 Reference to amended sections.

Except as otherwise specified, reference to any provision in or appendix to this part or chapter or to any regulation, ruling, order, instruction, directive, or license issued pursuant to this part refers to the same as currently amended.

§ 584.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by OFAC does not affect any act done or omitted, or any civil or criminal proceeding commenced or pending, prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 584.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person whose property and interests in property are blocked pursuant to § 584.201(a), such property shall no longer be deemed to be property blocked pursuant to § 584.201(a), unless there exists in the property another interest that is blocked pursuant to § 584.201(a), the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property and interests in property are blocked pursuant to § 584.201(a), such property shall be deemed to be property in which such person has an interest and therefore blocked.

§ 584.404 Transactions ordinarily incident to a licensed transaction.

(a) Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(1) An ordinarily incident transaction, not explicitly authorized within the terms of the license, by or with a person whose property and interests in property are blocked pursuant to § 584.201(a); or

(2) An ordinarily incident transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property.

(b) Example. A license authorizing a person to complete a securities sale involving Company A, whose property and interests in property are blocked pursuant to § 584.201(a), also authorizes other persons to engage in activities that are ordinarily incident and necessary to complete the sale, including transactions by the buyer, broker, transfer agents, and banks,

provided that such other persons are not themselves persons whose property and interests in property are blocked pursuant to § 584.201(a).

§ 584.405 Provision of services.

(a) The prohibitions on transactions contained in § 584.201 apply to services performed in the United States or by U.S. persons, wherever located, including by a foreign branch of an entity located in the United States:

(1) On behalf of or for the benefit of a person whose property and interests in property are blocked pursuant to § 584.201(a); or

(2) With respect to property interests of any person whose property and interests in property are blocked pursuant to § 584.201(a).

(b) Example. U.S. persons may not, except as authorized by or pursuant to this part, provide legal, accounting, financial, brokering, freight forwarding, transportation, public relations, or other services to a person whose property and interests in property are blocked pursuant to § 584.201(a).

Note to § 584.405: See §§ 584.507 and 584.509 on licensing policy with regard to the provision of certain legal and emergency medical services.

§ 584.406 Offshore transactions involving blocked property.

The prohibitions in § 584.201 on transactions or dealings involving blocked property apply to transactions by any U.S. person in a location outside the United States with respect to property held in the name of a person whose property and interests in property are blocked pursuant to § 584.201(a).

§ 584.407 Payments from blocked accounts to satisfy obligations prohibited.

Pursuant to § 584.201, no debits may be made to a blocked account to pay obligations to U.S. persons or other persons, except as authorized by or pursuant to this part.

Note to § 584.407: See also § 584.502(e), which provides that no license or other authorization contained in or issued pursuant to this part authorizes transfers of or payments from blocked property or debits to blocked accounts unless the license or other authorization explicitly authorizes the transfer of or payment from blocked property or the debit to a blocked account.

§ 584.408 Credit extended and cards issued by financial institutions to a person whose property and interests in property are blocked.

The prohibition in § 584.201 on dealing in property subject to that section prohibits U.S. financial institutions from performing under any existing credit agreements, including charge

cards, debit cards, or other credit facilities issued by a financial institution to a person whose property and interests in property are blocked pursuant to § 584.201(a).

§ 584.409 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 584.201 if effected after the effective date.

§ 584.410 Entities owned by one or more persons whose property and interests in property are blocked.

Persons whose property and interests in property are blocked pursuant to § 584.201(a) have an interest in all property and interests in property in which such blocked persons directly or indirectly own, whether individually or in the aggregate, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are blocked, and such an entity is a person whose property and interests in property are blocked pursuant to § 584.201(a), regardless of whether the name of the entity is incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List).

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 584.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. General licenses and statements of licensing policy relating to this part also may be available through the Magnitsky Sanctions page on OFAC's website: www.treasury.gov/ofac.

§ 584.502 Effect of license or other authorization.

(a) No license or other authorization contained in this part, or otherwise issued by OFAC, authorizes or validates any transaction effected prior to the issuance of such license or other authorization, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by OFAC and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any other part of this chapter unless the regulation, ruling, instruction, or license specifically refers to such part.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty,

obligation, claim, or interest in, or with respect to, any property that would not otherwise exist under ordinary principles of law.

(d) Nothing contained in this part shall be construed to supersede the requirements established under any other provision of law or to relieve a person from any requirement to obtain a license or other authorization from another department or agency of the U.S. Government in compliance with applicable laws and regulations subject to the jurisdiction of that department or agency. For example, exports of goods, services, or technical data that are not prohibited by this part or that do not require a license by OFAC nevertheless may require authorization by the U.S. Department of Commerce, the U.S. Department of State, or other agencies of the U.S. Government.

(e) No license or other authorization contained in or issued pursuant to this part authorizes transfers of or payments from blocked property or debits to blocked accounts unless the license or other authorization explicitly authorizes the transfer of or payment from blocked property or the debit to a blocked account.

(f) Any payment relating to a transaction authorized in or pursuant to this part that is routed through the U.S. financial system should reference the relevant OFAC general or specific license authorizing the payment to avoid the blocking or rejection of the transfer.

§ 584.503 Exclusion from licenses.

OFAC reserves the right to exclude any person, property, transaction, or class thereof from the operation of any license or from the privileges conferred by any license. OFAC also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon actual or constructive notice of the exclusions or restrictions.

§ 584.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property and interests in property are blocked pursuant to § 584.201(a) has any interest that comes within the possession or control of a U.S. financial institution must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may be made only to another blocked account held in the same name.

Note to § 584.504: See § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 584.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 584.505 Entries in certain accounts for normal service charges.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term normal service charges shall include charges in payment or reimbursement for interest due; cable, telegraph, internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 584.506 Investment and reinvestment of certain funds.

Subject to the requirements of § 584.203, U.S. financial institutions are authorized to invest and reinvest assets blocked pursuant to § 584.201, subject to the following conditions:

(a) The assets representing such investments and reinvestments are credited to a blocked account or subaccount that is held in the same name at the same U.S. financial institution, or within the possession or control of a U.S. person, but funds shall not be transferred outside the United States for this purpose;

(b) The proceeds of such investments and reinvestments shall not be credited to a blocked account or subaccount under any name or designation that differs from the name or designation of the specific blocked account or subaccount in which such funds or securities were held; and

(c) No immediate financial or economic benefit accrues (e.g., through pledging or other use) to a person whose property and interests in property are blocked pursuant to § 584.201(a).

§ 584.507 Provision of certain legal services.

(a) The provision of the following legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 584.201(a) or any Executive orders or further Presidential action relating to the Magnitsky Act is authorized, provided that receipt of payment of professional fees and reimbursement of incurred expenses must be specifically licensed, authorized pursuant to § 584.508, which authorizes certain payments for legal services from funds originating outside the United States, or otherwise authorized pursuant to this part:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of the United States or any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of persons named as defendants in or otherwise made parties to legal, arbitration, or administrative proceedings before any U.S. Federal, State, or local court or agency;

(3) Initiation and conduct of legal, arbitration, or administrative proceedings before any U.S. Federal, State, or local court or agency;

(4) Representation of persons before any U.S. Federal, State, or local court or agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

Note to paragraph (a): Consistent with § 584.404, U.S. persons do not need to obtain specific authorization to provide related services, such as making filings and providing other administrative services, that are ordinarily incident to the provision of services authorized by this paragraph. Additionally, U.S. persons who provide services authorized by this paragraph do not need to obtain specific authorization to contract for related services that are ordinarily incident to the provision of those legal services, such as those provided by private investigators or expert witnesses, or to pay for such services.

(b) The provision of any other legal services to persons whose property and interests in property are blocked pursuant to § 584.201(a) or any Executive orders or further Presidential action relating to the Magnitsky Act, not otherwise authorized in this part, requires the issuance of a specific license.

(c) Entry into a settlement agreement or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 584.201(a) or any Executive orders or further Presidential action relating to the Magnitsky Act is prohibited unless licensed pursuant to this part.

Note to § 584.507: U.S. persons seeking administrative reconsideration or judicial review of their designation or the blocking of their property and interests in property may apply for a specific license from OFAC to authorize the release of certain blocked funds necessary for the payment of professional fees and reimbursement of incurred expenses for the provision of such legal services where alternative funding sources are not available. For more information, see OFAC's Guidance on the Release of Limited Amounts of Blocked Funds for Payment of Legal Fees and Costs Incurred in Challenging the Blocking of U.S. Persons in Administrative or Civil Proceedings, which is available on OFAC's website: www.treasury.gov/ofac.

§ 584.508 Payments for legal services from funds originating outside the United States.

(a) Receipt of payment of professional fees and reimbursement of incurred expenses for the provision of legal services authorized pursuant to § 584.507(a) to or on behalf of any person whose property and interests in property are blocked pursuant to § 584.201(a) or any Executive orders or further Presidential action relating to the Magnitsky Act is authorized from funds originating outside the United States, provided that the funds do not originate from:

(1) A source within the United States;

(2) Any source, wherever located, within the possession or control of a U.S. person; or

(3) Any individual or entity, other than the person on whose behalf the legal services authorized pursuant to § 584.507(a) are to be provided, whose property and interests in property are blocked pursuant to any part of this chapter or any Executive order or statute.

Note to paragraph (a): This paragraph authorizes the blocked person on whose behalf the legal services authorized pursuant to § 584.507(a) are to be provided to make payments for authorized legal services using funds originating outside the United States that were not previously blocked. Nothing in this paragraph authorizes payments for legal services using funds in which any other person whose property and interests in property are blocked pursuant to § 584.201(a), any other part of this chapter, or any Executive order has an interest.

(b) Reports. (1) U.S. persons who receive payments pursuant to paragraph (a) of this section must submit annual reports no later than 30 days following the end of the calendar year during which the payments were received providing information on the funds received. Such reports shall specify:

(i) The individual or entity from whom the funds originated and the amount of funds received; and

(ii) If applicable:

(A) The names of any individuals or entities providing related services to the U.S. person receiving payment in connection with authorized legal services, such as private investigators or expert witnesses;

(B) A general description of the services provided; and

(C) The amount of funds paid in connection with such services.

(2) All required reports must reference this section and are to be submitted to OFAC using one of the below methods:

(i) Email: OFAC.Regulations.Reports@treasury.gov; or

(ii) U.S. mail: OFAC Regulations Reports, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, N.W., Freedman's Bank Building, Washington, DC 20220.

Note to § 584.508: U.S. persons who receive payments in connection with legal services authorized pursuant to § 584.507(a) do not need to obtain specific authorization to contract for related services that are ordinarily incident to the provision of those legal services, such as those

provided by private investigators or expert witnesses, or to pay for such services. Additionally, U.S. persons do not need to obtain specific authorization to provide related services that are ordinarily incident to the provision of legal services authorized pursuant to § 584.507(a).

§ 584.509 Emergency medical services.

The provision and receipt of nonscheduled emergency medical services that are otherwise prohibited by this part or any Executive orders or further Presidential action relating to the Magnitsky Act are authorized.

Subpart F—Reports

§ 584.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties and Finding of Violation

§ 584.701 Penalties.

(a) Section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) (IEEPA) is applicable to violations of the provisions of any license, ruling, regulation, order, directive, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under IEEPA.

(1) A civil penalty not to exceed the amount set forth in section 206 of IEEPA may be imposed on any person who violates, attempts to violate, conspires to violate, or causes a violation of any license, order, regulation, or prohibition issued under IEEPA.

Note to paragraph (a)(1): As of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], IEEPA provides for a maximum civil penalty not to exceed the greater of \$289,238 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(2) A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of a violation of any license, order, regulation, or prohibition may, upon conviction, be fined not more than \$1,000,000, or if a natural person, be imprisoned for not more than 20 years, or both.

(b) Adjustments to penalty amounts. (1) The civil penalties provided in IEEPA are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101-410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in IEEPA are subject to adjustment pursuant to 18 U.S.C. 3571.

(c) Pursuant to 18 U.S.C. 1001, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact; or makes any materially false, fictitious, or fraudulent statement or representation; or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry shall be fined under title 18, United States Code, imprisoned, or both.

(d) Violations of this part may also be subject to other applicable laws.

§ 584.702 Pre-Penalty Notice; settlement.

(a) When required. If OFAC has reason to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, directive, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act (50 U.S.C. 1705) (IEEPA) and determines that a civil monetary penalty is warranted, OFAC will issue a Pre-Penalty Notice informing the alleged violator of the agency's intent to impose a monetary penalty. A Pre-Penalty Notice shall be in writing. The Pre-Penalty Notice may be issued whether or not another agency has taken any action with respect to the matter.

For a description of the contents of a Pre-Penalty Notice, see appendix A to part 501 of this chapter.

(b) Response—(1) Right to respond. An alleged violator has the right to respond to a Pre-Penalty Notice by making a written presentation to OFAC. For a description of the information that should be included in such a response, see appendix A to part 501 of this chapter.

(2) Deadline for response. A response to a Pre-Penalty Notice must be made within 30 days as set forth in this paragraph (b). The failure to submit a response within 30 days shall be deemed to be a waiver of the right to respond.

(i) Computation of time for response. A response to a Pre-Penalty Notice must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to OFAC by courier) on or before the 30th day after the postmark date on the envelope in which the Pre-Penalty Notice was mailed. If the Pre-Penalty Notice was personally delivered by a non-U.S. Postal Service agent authorized by OFAC, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(ii) Extensions of time for response. If a due date falls on a Federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the discretion of OFAC, only upon specific request to OFAC.

(3) Form and method of response. A response to a Pre-Penalty Notice need not be in any particular form, but it must be typewritten and signed by the alleged violator or a representative thereof, must contain information sufficient to indicate that it is in response to the Pre-Penalty Notice, and must include the OFAC identification number listed on the Pre-Penalty Notice. A copy of the written response may be sent by facsimile, but the original also must be sent to OFAC's Enforcement Division by mail or courier and must be postmarked or date-stamped in accordance with paragraph (b)(2) of this section.

(c) Settlement. Settlement discussion may be initiated by OFAC, the alleged violator, or the alleged violator's authorized representative. For a description of practices with respect to settlement, see appendix A to part 501 of this chapter.

(d) Guidelines. Guidelines for the imposition or settlement of civil penalties by OFAC are contained in appendix A to part 501 of this chapter.

(e) Representation. A representative of the alleged violator may act on behalf of the alleged violator, but any oral communication with OFAC prior to a written submission regarding the specific allegations contained in the Pre-Penalty Notice must be preceded by a written letter of representation, unless the Pre-Penalty Notice was served upon the alleged violator in care of the representative.

§ 584.703 Penalty imposition.

If, after considering any written response to the Pre-Penalty Notice and any relevant facts, OFAC determines that there was a violation by the alleged violator named in the Pre-Penalty Notice and that a civil monetary penalty is appropriate, OFAC may issue a Penalty Notice to the violator containing a determination of the violation and the imposition of the monetary penalty. For additional details concerning issuance of a Penalty Notice, see appendix A to part 501 of this chapter. The issuance of the Penalty Notice shall constitute final agency action. The violator has the right to seek judicial review of that final agency action in Federal district court.

§ 584.704 Administrative collection; referral to United States Department of Justice.

In the event that the violator does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to OFAC, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a Federal district court.

§ 584.705 Finding of Violation.

(a) When issued. (1) OFAC may issue an initial Finding of Violation that identifies a violation if OFAC:

(i) Determines that there has occurred a violation of any provision of this part, or a violation of the provisions of any license, ruling, regulation, order, directive, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act;

(ii) Considers it important to document the occurrence of a violation; and,

(iii) Based on the Guidelines contained in appendix A to part 501 of this chapter, concludes that an administrative response is warranted but that a civil monetary penalty is not the most appropriate response.

(2) An initial Finding of Violation shall be in writing and may be issued whether or not another agency has taken any action with respect to the matter. For additional details concerning issuance of a Finding of Violation, see appendix A to part 501 of this chapter.

(b) Response—(1) Right to respond. An alleged violator has the right to contest an initial Finding of Violation by providing a written response to OFAC.

(2) Deadline for response; Default determination. A response to an initial Finding of Violation must be made within 30 days as set forth in this paragraph (b). The failure to submit a response within 30 days shall be deemed to be a waiver of the right to respond, and the initial Finding of Violation will become final and will constitute final agency action. The violator has the right to seek judicial review of that final agency action in Federal district court.

(i) Computation of time for response. A response to an initial Finding of Violation must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to OFAC by courier) on or before the 30th day after the postmark date on the envelope in which the initial Finding of Violation was served. If the initial Finding of Violation was personally delivered by a non-U.S. Postal Service agent authorized by OFAC, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(ii) Extensions of time for response. If a due date falls on a Federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the discretion of OFAC, only upon specific request to OFAC.

(3) Form and method of response. A response to an initial Finding of Violation need not be in any particular form, but it must be typewritten and signed by the alleged violator or a representative thereof, must contain information sufficient to indicate that it is in response to the initial Finding of Violation, and must include the OFAC identification number listed on the initial Finding of Violation. A copy of the written response may be sent by facsimile, but the original also must be sent to OFAC by mail or courier and must be postmarked or date-stamped in accordance with paragraph (b)(2) of this section.

(4) Information that should be included in response. Any response should set forth in detail why the alleged violator either believes that a violation of the regulations did not occur

and/or why a Finding of Violation is otherwise unwarranted under the circumstances, with reference to the General Factors Affecting Administrative Action set forth in the Guidelines contained in appendix A to part 501. The response should include all documentary or other evidence available to the alleged violator that supports the arguments set forth in the response. OFAC will consider all relevant materials submitted in the response.

(c)(1) Determination. If, after considering the response, OFAC determines that a final Finding of Violation should be issued, OFAC will issue a final Finding of Violation that will inform the violator of its decision. A final Finding of Violation shall constitute final agency action. The violator has the right to seek judicial review of that final agency action in Federal district court.

(2) Determination that a Finding of Violation is not warranted. If, after considering the response, OFAC determines a Finding of Violation is not warranted, then OFAC will inform the alleged violator of its decision not to issue a final Finding of Violation.

Note to paragraph (c)(2): A determination by OFAC that a final Finding of Violation is not warranted does not preclude OFAC from pursuing other enforcement actions consistent with the Guidelines contained in appendix A to part 501 of this chapter.

(d) Representation. A representative of the alleged violator may act on behalf of the alleged violator, but any oral communication with OFAC prior to a written submission regarding the specific alleged violations contained in the initial Finding of Violation must be preceded by a

written letter of representation, unless the initial Finding of Violation was served upon the alleged violator in care of the representative.

Subpart H—Procedures

§ 584.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

§ 584.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to the Magnitsky Act; Presidential Memorandum of April 5, 2013: Delegation of Functions Under Section 404 and 406 of Public Law 112-208 (78 FR 22761, April 16, 2013); or any Executive orders or further Presidential action relating to the Magnitsky Act, may be taken by the Director of OFAC or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 584.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures, and other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Dated: December 11, 2017.

John E. Smith
Director, Office of Foreign Assets Control.

Approved: December 11, 2017.

Sigal P. Mandelker
Under Secretary, Office of Terrorism and Financial Intelligence.
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